

RULE 1.5 SMOKING PROHIBITED

Smoking is prohibited in all court facilities. For purposes of this rule, “smoking” includes the use of e-cigarettes or similar devices.

(Eff. 1/1/16)

RULE 1.6 ELECTRONIC DEVICES

- (a) Definition: “Electronic devices” includes, without limitation, all cellular phones, computers, tablets, digital assistants, digital cameras, video recorders, television cameras, smartwatches, and wearable computers.
- (b) Use in Courtrooms: Prior to entering a courtroom, all electronic devices must be silenced, or in the discretion of the judge or commissioner, turned off. No person may use an electronic device for photographing, recording, or broadcasting in a courtroom, unless that person has obtained advance permission from the judge or commissioner. No person may handle an electronic device in a courtroom in any way that suggests that a photograph or other recording is being taken. In the discretion of the judge or commissioner, some or all electronic devices may be prohibited from a courtroom for a specific hearing or trial. Attorneys, probation officers, police officers, and other professionals may use electronic devices in a courtroom to conduct legal research or otherwise facilitate proceedings.
- (c) Judicial Discretion: Nothing in this rule restricts a judge’s or commissioner’s discretion to regulate the use of electronic devices in his or her courtroom.

(Eff. 1/1/16)

RULE 2.3 CLERK'S OFFICE—HOURS OF OPERATION **FOR PUBLIC SERVICE**

As of the effective date of this rule, the clerk's office hours **of operation for public service** are from 8 a.m. - **through** 4 p.m. on court days. **NO FILINGS WILL BE ACCEPTED AFTER 4:00 P.M.** The ~~clerk's office~~ hours **of operation** are determined by the judges and court administration and are subject to change with prior notice to the public **in accordance with Government Code section 68106(b).**

(Eff. 7/1/99) (Rev. 7/1/08) **(Rev. 1/1/16)**

RULE 2.10 SERVICE PROVIDERS

- (a) Definition: “Service providers” means the following non-employee, court-appointed experts and specialists: (i) forensic evaluators, (ii) family law investigators, (iii) mediators, (iv) background researchers, and (v) court reporters.
- (b) Fees: The maximum fee to paid to each category of Service Provider is set forth in the Service Rate Schedule available on the Court’s website. The Service Rate Schedule may be updated from time to time upon approval of the Presiding Judge. An updated Service Rate Schedule shall be effective immediately upon approval by the Presiding Judge.
- (c) Judicial Discretion: The allowance of fees in excess of those specified in the Service Rate Schedule is subject to the discretion of the court upon proper and sufficient showing by the claimant of the necessity or justification thereof, except as may otherwise be specifically provided by statute.

(Eff. 1/1/16)

RULE 2.11 EXTRAORDINARY COMPENSATION FOR ATTORNEYS AND PERSONAL REPRESENTATIVES IN DECEDENTS' ESTATES

- (a) Petition: A petition for extraordinary compensation for attorneys and personal representatives in decedents' estates will not be considered unless the notice of hearing contains a reference to that petition. A petition must include, or be accompanied by, the statement of facts as required by CRC 7.702.
- (b) Discretion of Court: The award of extraordinary compensation is within the discretion of the court. Ordinarily, extraordinary compensation will not be awarded without a proper showing that statutory fees have been exhausted.
- (c) Standards: CRC 7.703 provides examples of services for which the court may award extraordinary compensation. The court will look at the reasonableness and benefit to the interested parties in determining whether and what amounts of extraordinary compensation will be awarded. The court will not award compensation for legal services performed by non-attorneys, except for services performed by paralegals in accordance with CRC 7.703(e). Legal services do not include, and the court will not award compensation for, matters which are overhead, secretarial in nature, or do not require special legal skills. Ordinarily, the court will award no more than one hour for a court appearance in a non-litigated matter. The court will not award compensation for items such as office supplies.
- (d) Customary Compensation: In reviewing petitions for extraordinary compensation, the court considers the amounts historically and customarily awarded in the community. For attorneys' fees in non-litigated matters, the court has customarily awarded fees in the range of \$200 to \$400 per hour. For paralegals, the court has customarily awarded fees in the range of \$75 to \$150 per hour. For personal representatives, the court has customarily awarded fees in the range of \$20 to \$50 per hour. All petitions must clearly indicate who has performed the services for which extraordinary compensation is being requested. In the event that a personal representative performs services requiring special training and skills (e.g., a CPA preparing tax returns or performing an audit), the court will consider a higher hourly rate on a case-by-case basis. Counsel should not assume that the court will automatically award the maximum rates set forth herein. Litigated matters will be considered on a case-by-case basis.

(Eff. 1/1/16)

RULE 2.12 RESTRICTED AREAS

The following areas of the court facilities are reserved for the exclusive use of court personnel: (i) the offices of the judicial officers, (ii) the entire length of the corridor adjacent to the offices of the judicial officers, (iii) the administrative offices, and (iv) the clerks' offices. Members of the public, jurors, employees of other agencies, private attorneys and their staff, and all other individuals are prohibited from entering these areas unless accompanied by court personnel. Security personnel may remove unauthorized persons from these areas.

(Eff. 1/1/16)

RULE 2.13 PUBLIC ACCESS

- (a) Purpose: This rule is adopted to (i) ensure public access to the courthouse, (ii) safeguard the normal conduct of court business, (iii) promote the public perception of judicial neutrality, and (iv) maintain proper judicial decorum.
- (b) Access: No person may block or impede any entrance or exit to the courthouse, including entrances and exits to the parking areas. This prohibition shall not apply to workers who, with the permission of the court, block a courthouse entrance or exit during the course of repairs or cleaning.
- (c) Courthouse plaza: The courthouse plaza is closed to the public between the hours of 8 p.m. and 7 a.m. daily (including weekends and court holidays). Lodging or camping in the courthouse plaza is prohibited. No stereos, bullhorns, or other amplification devices may be used in the courthouse plaza. The “courthouse plaza” refers to the outdoor area bounded by, but not including, the sidewalks on Monterey Street, 4th Street, West Street, and 3rd Street.
- (d) Regulated activities: Unless related to court business, the following activities are prohibited in the courthouse: (i) picketing, (ii) demonstrating, (iii) leafleting, (iv) solicitation (either in person or via posting), (v) proselytizing or preaching, and (vi) peddling merchandise or services. These activities are allowed in the courthouse plaza only if a license has been obtained from the Judicial Council of California.

(Eff. 1/1/16)

RULE 6.1 CIVIL JURY TRIALS

- (a) Jury Deposits: For all civil matters scheduled for a jury trial, other than unlawful detainer actions, the clerk's office must receive the first day's jury deposit of \$150 no later than 25 calendar days prior to trial. In unlawful detainer actions, the clerk's office must receive the first day's jury deposit of \$150 no later than 5 calendar days prior to trial.
- (b) Waiver: Upon waiver of trial by jury by announcement or by operation of law, any demand for trial by jury by opposing counsel must be accompanied by a jury deposit of \$150.
- (c) Nonrefundable Refund of Jury Deposits: Jury deposits are nonrefundable ~~only if a written notification of cancellation of a jury trial is received by the clerk at least 2 court days before the date of trial.~~
- (d) Demand for Jury Trial: All civil cases set for trial in which there is an entitlement to a jury will be deemed to have a jury demand made by plaintiff absent a waiver in writing or in open court. If no waiver is made, plaintiff must pay the jury deposit. If plaintiff waives a jury, either by actual waiver or by failure to deposit the correct jury fees as set out in (a), any other party may demand a jury and be responsible for the jury deposit consistent with Code of Civil Procedure section 631(b).

(Eff. 7/1/99) (Rev. 7/1/08) (Rev. 1/1/12) (Rev. 1/1/16)

RULE 6.2 TRIAL BRIEFS (JURY TRIALS, LONG CAUSE BENCH TRIALS, FAMILY LAW TRIALS)

(a) Content of Trial Brief: A trial brief must contain the following:

- (1) an expected exhibit list;
- (2) an expected witness list and a brief summary of expected testimony of each witness;
- (3) a list of any witness problems that may interfere with the timely conduct of the trial;
- (4) any other issues that will have to be dealt with by the trial judge;
- (5) for jury trials, a list of proposed jury instructions compliant with CRC 2.1055; and
- (6) for criminal cases, a disclosure of maximum criminal exposure.

(b) Criminal Trials: In a criminal jury trial or a long cause criminal bench trial, each party must file with the court and serve on the other party or parties:

- (1) a trial brief; and
- (2) all motions in limine, along with supporting points and authorities.

In addition, the prosecution must file with the court and serve on the defendant(s) a proposed verdict form. These items must be filed and served at least four (4) court days prior to the trial date or at such other time as the court may order. Any opposition to a motion in limine must be filed with the court and served on the other party or parties at least two (2) court days prior to the trial date or at such other time as the court may order.

(c) Civil Trials: In all civil jury trials and long cause civil bench trials, each party must file with the court and serve on the other party or parties:

- (1) a trial brief; and
- (2) all motions in limine, along with supporting points and authorities.

In addition, the plaintiff must file with the court and serve on the defendant(s) a proposed verdict form. These items must be filed and served at least four (4) court days prior to the trial date or at such other time as the court may order. Any opposition to a motion in limine must be filed with the court and served on the other party or parties at least two (2) court days prior to the trial date or at such other time as the court may order.

(d) Family Law Trials: In all family law trials, each party must file with the court and serve on the other party or parties:

- (1) a trial brief; and
- (2) all motions in limine, along with supporting points and authorities.

These items must be filed and served at least four (4) court days prior to the trial date or at such other time as the court may order. Any opposition to a motion in limine must be filed with the court and served on the other party or parties at least two (2) court days prior to the trial date or at such other time as the court may order.

- (e) Submission Format: All items required to be filed pursuant to this rule must be submitted to the court BOTH (i) on paper during normal court hours AND (ii) electronically in a Microsoft Word or PDF file. Microsoft Word or PDF files must be emailed to the court using the following email address: clerk@sanbenito.courts.ca.gov. Self-represented parties are exempt from the requirement to submit an electronic copy. Upon a showing of undue hardship or significant prejudice, any other party will be exempted from the requirement to submit an electronic copy.
- (f) Sanctions: Failure to timely file the required items may result in the trial being vacated, the imposition of monetary sanctions including payment of costs and fees, or in trial sanctions precluding the litigation of issues or the exclusion of evidence. The court has authority to impose these sanctions on its own motion. The sanctions may also be requested by an adverse party on noticed motion.

(Eff. 1/1/11) (Rev. and renumbered 1/1/12) (Rev. 1/1/16)

RULE 10.9 MEDIATION

Code of Civil Procedure sections 1775 - 1775.15 and CRC ~~3.870 – 3.878~~ **3.890 – 3.898** apply to all civil cases as stated therein.

(Eff. 7/1/99) (Rev. 7/1/08) **(Rev. 1/1/16)**

RULE 10.10 INTERPRETERS

~~Interpreters will not be provided for civil or small claims matters, unless required by law or ordered by the court. Any civil or small claims party requiring the services of an interpreter must arrange and pay for the services of the interpreter.~~

- (a) Parties: The court may appoint an interpreter to assist parties with limited English proficiency in certain civil matters, in accordance with the priorities set forth in Evidence Code section 756. The cost for the court-appointed interpreter will be paid by the court. If the court does not appoint an interpreter to assist a party with limited English proficiency, that party may hire an interpreter at its own expense.
- (b) Witnesses: The court may appoint an interpreter to interpret for a non-English-speaking witness who is incapable of understanding or expressing himself or herself in English so as to be understood directly by counsel, court, and jury. The cost for the interpreter will be paid by the party or parties, as directed by the court. Alternately, the court may waive the fee for a court-appointed interpreter for a witness.
- (c) Notice to Court: Parties, attorneys, and justice partners should alert the court to a party's need for an interpreter as early as possible, so that the need may be taken into consideration in scheduling hearings or trials.

(Eff. 7/1/99) (Rev. 7/1/08) (Rev. 1/1/16)

RULE 10.11 COURT REPORTING SERVICES

Pursuant to CRC 2.956 - 2.958 and Government Code section 68086, the court hereby adopts the following policy as a local rule.

The court provides services of official court reporters in all juvenile matters and in all felony criminal matters as required by law during regular court hours. ~~Court reporting services are not available during a hearing on law and motion and other trial and non-trial matters in civil cases. However, the~~ The court may also provide official court reporter services for civil cases during regular ~~daily~~ weekly scheduled court calendars if the official court reporter is available. ~~Court reporting services are not available during a hearing on law and motion and other trial and non-trial matters in civil cases that are not heard on the regular daily calendar (i.e. special set hearings). If a party wishes to obtain a court reporter for such a hearing, the party may hire a court reporter at its own expense. The clerk will maintain a list of court reporters, and make this list available to a party upon request.~~ For purposes of this local rule, “civil case” includes all matters other than criminal and juvenile matters.

(Eff. 7/1/99) (Rev. 1/1/02) (Rev. 7/1/08) (Rev. 1/1/12) (Rev 1/1/16)

RULE 11.2 FINANCIAL ISSUES

- (a) Income and Expense Declaration (Form FL-150) or Financial Statement (Simplified) (Form FL-155): The court will not hear a family law matter with financial issues, including child support, spousal support, payment of debts or attorney fees, unless each party to the action has completed, served, and filed in compliance with CRC ~~5.448~~ **5.92** a current (executed within sixty calendar days of the hearing or trial) and accurate Income and Expense Declaration (Form FL-150) or Financial Statement (Simplified) (Form FL-155). In the event there has been no change within the previous sixty calendar days, a party may file with the court a declaration under penalty of perjury to that effect in lieu of a new Income and Expense Declaration or Financial Statement (Simplified) with current verification of earnings or income attached to the declaration.
- (b) Documentation: If the parties have not exchanged current documentation 5 court days before the scheduled hearing, the parties must exchange the following documents: (i) current wage verification for the prior 3 month period and (ii) most recent state and federal income tax returns with W-2 statements. If a party is self-employed, the party must also produce all year-end 1099 forms for the prior year, and a current profit and loss statement and balance sheet of the self-employed party's business entity. The submitting party may strike confidential information.
- (c) Public Assistance and Temporary Assistance for Needy Families (TANF): A party receiving public assistance benefits must disclose that fact, including appropriate aid and/or Department of Child Support Services identification of file numbers.

(Eff. 2/1/91) (Rev. and renumbered 7/1/99) (Rev. 7/1/08) (Rev. 1/1/11) **(Rev. 1/1/16)**

**RULE 11.10 APPOINTMENT OF COURT-APPOINTED INVESTIGATOR OR
EVALUATOR**

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- (h) Court Rules Regarding Court-Appointed Investigations/Evaluations: When the court orders an investigation or evaluation, the court will give each party a copy of this local rule.

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(Eff. 7/1/99) (Rev. 7/1/08) (Rev. 1/1/16)

RULE 13.3 GENERAL COMPETENCY REQUIREMENT

All attorneys appearing in juvenile dependency proceedings must **comply with the requirements of this chapter.** ~~meet minimum standards of competence as set forth in these local rules. These local rules are~~ **This chapter is** applicable to attorneys employed by public agencies, attorneys appointed by the court to represent any party in a juvenile dependency proceeding, and attorneys who are privately retained to represent a party to a juvenile dependency proceeding.

(Eff. 7/1/96) (Renumbered 7/1/99) (Rev. 7/1/08) **(Rev. 1/1/16)**

RULE 13.4 SCREENING FOR COMPETENCY

- (a) Initial Certification of Competency: ~~All attorneys who represent parties in juvenile dependency proceedings must meet the minimum standards of training or experience set forth in these local rules.~~ Any **court-appointed** attorney appearing in a dependency matter for the first time must complete and submit a Certification of Competency (as set forth in Appendix A) to the court within 10 court days of his or her first appearance in a dependency matter. **Any privately-retained attorney appearing in a dependency matter for the first time must either (i) complete and submit a Certification of Competency to the court within 10 court days of his or her first appearance in a dependency matter, or (ii) provide a written notice to the applicable client(s) disclosing that the attorney has not completed a Certification of Competency, and file a copy of the notice with the Court.**
- (b) Renewal Certification of Competency: In order to retain his or her competency to practice before the juvenile court in dependency cases beyond the expiration of the current competency period, an attorney must submit a new Certification of Competency to the court. See Local Rule 13.5(d) regarding decertification.
- (c) Competency Period: Effective January 1, 2016 the competency periods of all attorneys receiving initial or renewal Certifications of Competency will expire on a uniform date. The first uniform competency period begins on February 1, 2016 and ends on January 31, 2019. The competency period of any attorney receiving an initial or renewal Certification of Competency during the first uniform competency period will expire on January 31, 2019. Example A: an attorney submits a Certification of Competency to the court on February 1, 2016; his or her competency period will expire on January 31, 2019, a full three years later. Example B: an attorney submits a Certification of Competency to the court on August 31, 2018; his or her competency period will expire on January 31, 2019, only five months later. Subsequent uniform competency periods will expire on the third anniversary of the expiration of the prior uniform competency period (e.g., January 31, 2022; January 31, 2025; etc.).
- (~~b~~d) Standards: Attorneys who meet the minimum standards of training or experience as set forth in Local Rule 13.5, as demonstrated by the ~~information contained in evidence submitted along with a~~ the Certification of Competency-submitted to the court, will be deemed competent to practice before the juvenile court in dependency cases except as provided in subdivision (~~ee~~) of this rule.
- (~~ee~~) Prior Conduct or Performance:
- (1) Initial Finding. Upon submission of an **initial or renewal** Certification of Competency, the court may determine that a particular attorney does not meet minimum competency standards based on the conduct or performance of that attorney before the court in a dependency case within the six-month period prior to the submission of the certification.
 - (2) Notice. The court will provide notice of this determination to the attorney. The attorney will have 10 court days after the date of the notice to request a hearing before the court concerning the court's determination. If the attorney does not

request a hearing within that period of time, the court's determination will become final.

- (3) Hearing: If the attorney requests a hearing, the hearing will be held as soon as practicable after the attorney's request therefor. The attorney will be given at least 10 court days notice of the hearing. The hearing may be held in chambers. The hearing will not be open to the public. The court may designate a commissioner, referee, judge pro tempore, or any qualified member of the bar to act as hearing officer. At the hearing, the attorney must present arguments to the hearing officer with respect to the court's determination. Within 10 court days after the hearing, the court or hearing officer must issue a written determination upholding, reversing or amending the court's original determination. The hearing decision is the final determination of the court with respect to the matter. A copy of the hearing decision must be provided to the attorney.
- (d~~f~~) Lawyers from Outside San Benito County: In the case of an attorney who maintains his or her principal office outside of San Benito county, proof of certification by the juvenile court of the California county in which the attorney maintains an office will be sufficient evidence of competence to appear in a juvenile proceeding in this court.

(Eff. 7/1/96) (Rev. and renumbered 7/1/99) (Rev. 7/1/08) (Rev. 1/1/16)

RULE 13.5 MINIMUM STANDARDS OF EDUCATION OR TRAINING

- (a) ~~Standards~~ **Initial Certification of Competency:** ~~An attorney appearing in a dependency matter before the juvenile court must not seek Certification of Competency and will not be certified by the court as competent until the attorney has completed the following minimum training or experience requirements. Prior to the certification, For the initial Certification of Competency, the attorney must have either:~~
- (1) Participated in at least eight hours of training or education in juvenile dependency law **in the immediately preceding three years**, which training or education must have included information on the applicable case law and statutes, the rules of court, Judicial Council forms, motions, trial techniques and skills, writs and appeals, child development, child abuse and neglect, family reunification and preservation, or
 - (2) At least six months of experience in dependency proceedings in which the attorney has demonstrated competence in the attorney's representation of his or her clients. In determining whether the attorney has demonstrated competence, the court must consider whether the attorney's performance has substantially complied with the requirements of these rules.
- (b) **Renewal Certification of Competency:** ~~In order to retain his or her certification to practice before the juvenile court, each attorney who has been previously certified by the court must submit a new Certification of Competency to the court on or before January 31st of the third year after the year in which the attorney is first certified and then every third year thereafter. The attorney must attach the renewal Certification of Competency as evidence that he or she has For a renewal Certification of Competency, the attorney must have completed at least eight hours of continuing training or education directly related to dependency proceedings since the attorney was last certified. The attorney's continuing training or education must have occurred during the three years immediately prior to the submission of the renewal Certificate of Competency, and may not include any training or education that was counted toward a prior Certification of Competency. Evidence of completion of the required number of hours of training or education may include a copy of (i) a certificate of attendance issued by a California MCLE provider; (ii) a certificate of attendance issued by a professional organization which provides training or education for its members, whether or not it is a MCLE provider; (iii) the training or educational program schedule together with evidence of attendance at a program; or (iv) other documentation as may reasonably be considered to demonstrate the attorney's attendance at a program. Attendance at a court sponsored or approved program will also count toward the required training hours.~~
- (c) **Continuing Training:** The attorney's continuing training or education must be in the areas set forth in subdivision ~~(a)~~(1)(a) of this local rule, or in other areas related to juvenile dependency practice including substance abuse, domestic violence, restraining orders, special education, mental health, health care, immigration issues, the rules of evidence, adoption practice and parentage issues, the Uniform Child Custody Jurisdiction Act, the Parental Kidnapping Prevention Act, state and federal public assistance programs, the Indian Child Welfare Act, client interviewing and counseling techniques,

case investigation and settlement negotiations, mediation, basic motion practice, and the rules of civil procedure. ~~(Rev. 1/1/02)~~

- (d) Decertification: When a certified attorney fails to submit evidence that he or she has competed at least the minimum required training and education to the court by the due date, the court will notify the attorney that he or she will be decertified. The attorney will have 20 court days from the date of the mailing of the notice to submit evidence of his or her completion of the required training or education. If the attorney fails to submit the required evidence or fails to complete the required minimum hours of continuing training or education, the court must order that certified counsel be substituted for the attorney who fails to complete the required training, except in cases where a party is represented by retained counsel.
- (e) Evidence of Training or Education: Evidence of completion of training or education may include a copy of (i) a certificate of attendance issued by a California MCLE provider; (ii) a certificate of attendance issued by a professional organization which provides training or education for its members, whether or not it is a MCLE provider; (iii) the training or educational program schedule together with evidence of attendance at a program; or (iv) other documentation as may reasonably be considered to demonstrate the attorney's attendance at a program or completion of self-study activities. Attendance at a court-sponsored or approved program will also count toward the required training hours.

(Eff. 7/1/96) (Renumbered 7/1/99) ~~(Rev. 1/1/02)~~ (Rev. 7/1/08) (Rev. 1/1/11) ~~(Rev. 1/1/16)~~

RULE 13.9 TIMELINES

Attorneys for parties must adhere to the statutory timelines for all hearings. The court will accept time waivers and grant continuances only on a showing of exceptional circumstances. Timelines for hearing are:

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- (k) Notice of Appeal: A notice of appeal must be filed within 60 calendar days after the rendition of the judgment. (See CRC ~~5.585(f)~~ **8.406**.)

(Eff. 7/1/99) (Rev. 7/1/08) **(Rev. 1/1/16)**